

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ABDELAZIZ BENNOUR,)	
Petitioner,)	
)	
v.)	C.A. No. 04-12149-MLW
)	
BRUCE CHADBOURNE, et al.,)	
Respondent.)	

ORDER

WOLF, D.J.

November 15, 2004

For the reasons stated in court on November 15, 2004, it is hereby ORDERED that:

1. Petitioner shall, by December 7, 2004, file an affidavit explaining why he did not seek review of the Board of Immigration Appeals' ("BIA") July 11, 2004 decision not to reopen his appeal in the First Circuit Court of Appeals within 30 days as required by 8 U.S.C. §§1252(b)(1), (2) and what prejudice, if any, resulted from the BIA's decision not to reopen his appeal. He shall also file a supplemental memorandum addressing these issues and the implications for this matter of the cases that were cited for the first time during the November 15, 2004 hearing, including: Liu v. I.N.S., 293 F.3d 36 (2nd Cir. 2002); Chmakov v. Blackman, 266 F.3d 210 (3rd Cir. 2001); Ven v. Ashcroft, 386 F.3d 357 (1st Cir. 2004); Awe v. Ahscroft, 324 F.3d 509 (7th Cir. 2003); Hernandez v. Reno, 238 F.3d 50 (1st Cir. 2001); and Sayyah v. Farquharson, 382 F.3d 20, 382 F.3d 20.

2. The government shall, by December 16, 2004, respond to

the petitioner's supplemental memorandum.

3. A further hearing on the government's Motion to Dismiss shall be held on December 22, 2004, at 10:30 a.m.

4. If necessary, petitioner shall, by November 18, 2004, issue a subpoena to the South Bay Correctional Facility ("South Bay") for petitioner's file relating to his deportation proceedings.

5. South Bay shall, by November 21, 2004, produce the file to petitioner's counsel or file a motion to quash the subpoena.

/s/ Mark L. Wolf
UNITED STATES DISTRICT JUDGE